

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 24538 of 2000

Between:

M/s Dhanalaxmi Rice & Oil Mill, Rep. by its Manaing Partner
V.Dhanalaxmi, Miryalaguda Road, Nalgonda Town & District.

..... PETITIONER

AND

- 1 Andhra Pradesh Central Power Distribution Co. Limited, rep. by its (erstwhile A.P.S.E.B), rep. by its Superintending Engineer, Operation Circle, Nalgonda.
- 2 The Divl. Engineer Operation, A.P. Central Power Distribution Co. Ltd., (AP C.P.D.Ltd), Nalgonda.
- 3 The Asst.Divil.Engineer/O & M, A.P.C.P.D.Co.Ltd, Nalgonda.
- 4 Assistant Accounts Officer (ERO), A.P.C.P.D.Co. Ltd, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially Writ of Certiorari calling for the records and quash the procds. Order No.DEE/OP /Nlg/Comml/F.D.No.1511/99 dt. 30-8-1999 as confirmed in appeal order No.SE/OP/Nlg/Coml/F.B.B/D.No.2991/2000 dt. 8-11-2000 on the file of Respondent No.1 as illegal, void, without jurisdiction, contrary to section 26(6) of Indian Electricity Act, 1910 and also contrary to judgment laid down in 'AIR 1988 SC 71'.

Counsel for the Petitioner: MR.M.VENKAT RAM REDDY

Counsel for the Respondents : SMT.M.VINOBA DEVI

The Court made the following :

ORDER:

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Heard the learned counsel for the petitioner and Sri N.Subba Reddy, senior counsel for Smt. M.Vinobha Devi, standing counsel appearing on behalf of the respondents.

The petitioner, which is a rice and oil mill, seeks to assail the impugned orders dated 30.08.1999 passed by the second respondent and as confirmed in appeal by the first respondent as per orders dated 08.11.2000, as illegal and void.

The case of the petitioner is that in pursuance of inspection conducted on 08.09.1998 in the mill, a show cause notice was issued on 23.09.1998 on certain allegations especially to the effect that the meter is not running in one phase and is forward in remaining two phases; capacitors are not connected; and there is an error in the very meter, and as a result, there is a demand on the basis of back billing. The petitioner filed objections therefor, however, the same were not accepted and ultimately the second respondent assessed the amount at Rs. 18,630/-. On appeal, the same was confirmed by the first respondent rejecting all the pleas raised by the petitioner.

Considering the submissions made and on perusal of the material, it is seen that in view of the concurrent findings of fact as arrived at by both the authorities in regard to the allegations as made against the petitioner, it is not open for him at this stage to raise any such pleas on facts. However, by taking into consideration the fact that the petitioner had already paid Rs. 9,000/- initially and subsequently a further sum of Rs.4,000/- in terms of the interim orders granted by this Court, and also long lapse of time after the inspection which was conducted on 08.09.1998, it would suffice in the interest of justice to reduce the assessed amount by 1/4th of it. Accordingly, the amount is

reduced to Rs.13,973/-.

The Writ Petition is, accordingly, partly allowed. No costs.

(B.Prakash Rao,J.)

20.12.2005

DRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice

On Thursday, the twentieth day of January Two thousand and five.

... Registrar

Copy to:

- 1 The Chief Engineer, A.P.State Electricity Board,
Cuddapah Zone, Cuddapah, Cuddapah District.
- 2 The Superintending Engineer (Assessments), A.P.State Electricity Board,
Cuddapah, Cuddapah District.
- 3 The Assistant Divisional Engineer (Operations), A.P.State Electricity Board,
CCO Sub-Division, Banaganapalli, Kurnool District.
- 4 Two CD copies.

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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